

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL NO. 1456
LITIGATION)	
)	ACTION: 01-CV-12257-PBS
)	
THIS DOCUMENT RELATES TO:)	JUDGE PATTI B. SARIS
)	
THE MASTER CONSOLIDATED)	Chief Magistrate
CLASS ACTION)	Judge Marianne B. Bowler
)	

**DEFENDANTS BOEHRINGER INGELHEIM CORPORATION, BEN VENUE
LABORATORIES, INC. AND BEDFORD LABORATORIES' MOTION FOR LEAVE
TO FILE REPLY MEMORANDUM TO PLAINTIFFS' OPPOSITION TO
BOEHRINGER INGELHEIM CORPORATION, BEN VENUE LABORATORIES, INC.
AND BEDFORD LABORATORIES' MOTION FOR A PROTECTIVE ORDER**

Pursuant to Local Rule 7.1(B)(3), Defendants Boehringer Ingelheim Corporation, Ben Venue Laboratories, Inc. and Bedford Laboratories ("Defendants") hereby respectfully request leave to file a reply to Plaintiffs' Opposition to Boehringer Ingelheim Corporation, Ben Venue Laboratories, Inc. and Bedford Laboratories' Motion for a Protective Order. Defendants request 12 (twelve) days from receipt of Plaintiffs' Opposition to Defendants' Motion for a Protective Order, up to and including May 11, 2004, in which to file their reply memorandum. In support of this motion, Defendants state as follows:

1. On April 29, 2004, Defendants were served with Plaintiffs' Opposition to Defendants' Motion for a Protective Order filed on April 12, 2004.
2. Plaintiffs' Opposition plainly mischaracterizes the allegations in Plaintiffs' AMCC.
3. Plaintiffs' argue that "any plaintiff standing issues as to the drugs it does not now disavow manufacturing are cured by the addition of the Sprinkler Fund ... as a named

plaintiff.” However, National Automatic Sprinkler Industry Welfare Funds Motion to Intervene, filed on April 27, 2004, has not been fully briefed. Therefore, standing considerations remain unresolved until the issue is fully briefed and decided by the Court.

4. Plaintiffs’ Opposition also misconstrues the relief sought by Defendants’ Motion for a Protective Order.

5. Lastly, Plaintiffs’ assertion that the affidavits submitted in support of Defendants’ Motion for a Protective Order “should be disregarded as they are procedurally improper and highly suspect,” is incorrect and premised upon an erroneous reading of the websites attached to Plaintiffs’ Opposition.

6. Defendants request 12 (twelve) days, up to and including May 11, 2004, in which to file their reply memorandum. This date coincides with the date on which Defendants’ responses to National Automatic Sprinkler Industry Welfare Fund’s Motion to Intervene and Motion to Substitute Proper Party are due. Defendants submit that this is a reasonable timeframe given the similar nature and overlap of the issues raised in Defendants’ Motion for a Protective Order, Plaintiffs’ Motion to Substitute a Proper Party, and National Automatic Sprinkler Industry Welfare Funds Motion to Intervene.

7. After conferring with Plaintiffs on their position respecting this motion, Defendants have been unable to secure Plaintiffs’ assent.

WHEREFORE, Defendants respectfully move that this Court grant them leave to file a reply memorandum on or before May 11, 2004, in response to Plaintiffs' Opposition to Defendants' Motion for a Protective Order.

Respectfully submitted,

Dated: April 30, 2004

/s/ Paul J. Coval [signature on file with Court]

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties on this 30th day of April, 2004.

/s/ Paul J. Coval [signature on file with Court]